

# **USEUCOM CUSTOMS PROCEDURES**

**New Challenges Requiring New Solutions**



**A White Paper  
prepared for the  
Logistics and Security  
Assistance Director**

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# USEUCOM Customs Procedures

## *New Challenges Requiring New Solutions*

### Purpose and Background

The purpose of this White Paper is to recommend actions to solve the customs challenges that are hampering the efficient operation of the Theater Distribution System within the USEUCOM AOR. The paper will begin by presenting the current customs reality as promulgated in various NATO agreements and USEUCOM regulations. Next, we will examine initiatives and changing dynamics that have impacted on the traditional ways of executing customs operations in the AOR. Finally, we will present what we believe to be required actions and proposed methods of dealing with the shifting customs paradigm.

The source document for customs issues in the USEUCOM AOR is the "Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces (SOFA)" signed in London, UK on 19 June 1951. The most relevant passage of that document is provide below:

*"A force may import free of duty the equipment for the force and reasonable quantities of provisions, supplies and other goods for the exclusive use of the force and, in cases where such use is permitted by the receiving State, its civilian component and dependents. This duty-free importation shall be subject to the deposit, at the customs office for the place of entry, together with such customs documents as shall be agreed, of a **certificate in a form** agreed between the receiving State and the sending State signed by a person authorized by the sending State for that purpose. The designation of the person authorised to sign the certificates as well as specimens of the signatures and stamps to be used, shall be sent to the customs administration of the receiving State"*<sup>1</sup>

In plainer language, this passage allows for NATO nations to import equipment and cargo necessary for accomplishing the mission without paying customs duties. However, it also mandates that the country importing the equipment or cargo must certify that the cargo is related to the requirements of the "force".

The "certificate in a form" that is referred to, is identified as a "Form 302" in Standard NATO Agreement (STANAG) 2176. According to STANAG 2176, duty free importation of equipment and cargo to support the force , "shall be subject to the deposit, at the customs office for the nation of entry, of a customs declaration (Form 302)"<sup>2</sup> (Currently, NATO is staffing Allied Movement Publication, 2 ( AmovP -2) " Procedures For Surface Movements Across National Frontiers". This publication consolidates, but does not change, procedures for crossing frontiers between NATO countries by surface routes and the use of Form 302.)

The SOFA and STANAG agreements are referenced in USAREUR Reg. 55-355/USNAVEUR Inst. 4600.7E/USAFE Reg. 75-4 which outlines how USEUCOM forces will execute customs within the AOR. According to the regulation, "Commanders of organizations and heads of agencies who are authorized to appoint ITO or TMO, acting ITO or TMO, and transportation agents" may "appoint customs clearance officers to authenticate AE Form 302-1

(the US version of the Form 302) for customs clearance of consignments." The regulation also says that host nation officials retain the right to "search, examine, and seize articles."<sup>3</sup>

The procedures outlined above have proved adequate for a USEUCOM force that has been:

1. Largely located in NATO nations that have ratified the NATO SOFA
2. Able to receive all classes of supplies along well developed lines of communications astride of which sit USAREUR Installation Transportation Offices (ITOs) and Branch Movement Control Offices (BMCTs), USAFE Traffic Management Officers (TMOs) and NAVEUR Public Transportation Offices (PTOs)
3. Able to clear customs, for the most part, on a 9 to 5, Monday through Friday basis

## Changing Dynamics

As NATO has changed in the post-cold war area, customs requirements have changed as well. The first of these changes is NATO's increased operations role in non-NATO countries. Most of these countries (Albania, Austria, Bulgaria, Czech Republic, Estonia, FYROM, Finland, Georgia, Kazakhstan, Latvia, Lithuania, Moldova, Romania, Slovakia, Slovenia, Sweden, and Uzbekistan) have signed the "Agreement among the States parties to the North Atlantic Treaty and the other States participating in the Partnership for Peace (PfP) regarding the status of their forces." This agreement "shall apply the provisions" of the original NATO SOFA.<sup>4</sup> However in practice, moving military shipments into or out of PfP countries is not as routine as moving cargo into or out of traditional NATO countries that are more familiar with the Form 302. Indeed, although the PfP countries have signed the PfP SOFA, few of them have agreed to follow the provisions of the applicable STANAG(s). Some of these countries will not always or ever accept the Form 302.<sup>5</sup> Convoy delays at many borders, especially in Romania and the FYROM (Macedonia) have become the rule rather than the exception.<sup>6</sup> Customs requirements change from town to town, country to country, police force to police force, personality to personality.<sup>7</sup> This situation has resulted in a myriad of local agreements and informal customs practices based on hard experience that are put into practice every day but have not been centrally collected and disseminated throughout the theater distribution system. Thus, others have to re-learn the hard lessons of their predecessors.<sup>8</sup>

An issue raised by the 21st TSC is that many of the service members that are serving in these non NATO countries are untrained in AE 302 procedures. A large portion of these predominantly soldiers and airmen are stationed in CONUS and only over here in Europe temporarily. Many of these service members are reservists. In this situation, newly formed Supply Support Activities don't have the time, patience, and/or knowledge to deal with a 302. The priority is to break down cargo and get it off to the troops as quickly as possible. Paperwork of any kind, let alone the 302, is not a priority. The result is hundreds of 302s that either sit in an inbox, are destroyed on site or are simply ignored. This obvious training problem leaves hundreds of open 302s back in Germany.<sup>9</sup>

Another big change in NATO that has affected customs procedures is the way that we look at "Wartime, Periods of Tension and during Military Exercises." According to current and draft STANAGs, during this time, responsible military movement agencies are to report the requested border crossing point and the time scheduled to the appropriate customs authorities. In theory, they then "may cross the frontier without any additional formalities." An alternate approved wartime method is to present a very simplified written certificate along with a military identity card and the NATO travel order.<sup>10</sup> Conventional wisdom was that during contingency operations, customs procedures would be drastically streamlined to increase the efficiency of the theater

transportation system. However, during recent operations in Kosovo, these much more simplified procedures were seldom followed. Most if not all host nation customs offices conducted business as usual. Many refused to operate beyond their regular established operating hours. This resulted in frustrations for many USEUCOM forces as they attempted to support 24-hour operations.<sup>11</sup>

In the same vein, many of our military movement control organizations operate in the same manner. The BMCTs and MCTs predominantly operate from 0730 to 1630hrs five days a week, with little mechanism in place to assist customers after duty hours, weekends, and holidays. Using the same regulations for years, these offices can be very resistant to a changing environment.<sup>12</sup> However, as of late, these organizations are beginning to become more responsive to customer needs.<sup>13</sup>

Commercial business practices have also resulted in big changes to our traditional way of handling customs in the theater. As has been widely published, many corporations have been able to lower costs by relying on express delivery of packages. Inventory and warehouse costs are eliminated as firms are able to count on the fact that they will get their package "just in time" to meet their needs. In addition to a cost savings, this service provides for a greater flexibility as decisions can be delayed from the time it used to take to ship a package from overseas to the 48 hours or less it now takes to express the same package. One very appealing facet of this service is the carrier's ability to move the express package through customs in a timely manner. Although the customer, within the commercial sector, still has to pay the required import duties on the package, much of the administrative paperwork requirement is transferred to the carrier.

The concept of leveraging express transportation service to reduce inventories was a driving force behind USTRANSCOM's adoption of the Worldwide Express (WWX) program.<sup>14</sup> Unfortunately, within USEUCOM, this program has created its own set of customs problems. As outlined above, military agencies that can certify U.S. government shipments as "duty free" IAW existing STANAGs are still located at the traditional locations such as military airfields, MTMC ports, and BMCT offices. However, the commercial express carriers, following their own corporate practices, may bring their packages into civilian ports where there is no U.S. military presence. Because civilian corporations pay a customs duty on packages that they import (and do not need to get any more involved with the packages clearing customs), this works for them. This practice does not work for military cargo, as an AE 302, certifying that the package is duty free, is used instead. With no military transportation office present at the civilian port, the result is often long delays in moving packages forward. DHL packages that come through the airport in K In, may be delayed from 3 days to 3 weeks waiting for an AE 302 form to be mailed to the airport.<sup>15</sup> An additional result of the WWX program's featured door to door service is that there are hundreds of open AE 302s in Germany and Italy that have not been closed out by the consignee. This issue is of great concern to the German and Italian governments.<sup>16</sup>

The final new initiative related to military customs procedures is the designation of USTRANSCOM as the DoD proponent for customs operations. As a result of this designation, USTRANSCOM has formed a customs branch as part of their J-4 directorate. This branch plans to convert DOD 5030.49R into a user friendly guide for import and export considerations with sections for every part of the world. USTRANSCOM expects USEUCOM to develop a customs procedures guide for every country within the USEUCOM AOR.<sup>17</sup> Additionally, USTRANSCOM has plans to publish a Worldwide Web page listing customs procedures for each country in the world. The customs branch expects USEUCOM to develop and publish the information on countries located in the USEUCOM AOR.<sup>18</sup>

## Required Actions

The new customs requirements, information, and agreements that exist throughout the theater, justify the establishment of a central USEUCOM customs Point of Contact (POC). This POC will compile all of the available customs information and disseminate this information to the components as well as to the USTRANSCOM and the Joint Staffs. This customs POC, with his or her well-developed knowledge of the theater's customs' procedures, issues, and requirements will be better able to formulate customs policies and agreements. The POC will provide the leadership for a USEUCOM customs working group. The group will be responsible for the writing of the European portion of the new DOD customs manual. The group will consolidate present and negotiate future customs agreements. This group will negotiate with host nation countries to extend custom's office operating hours during contingency operations. This group will devise a plan to more quickly clear WWX packages through commercial airports. The group will also formulate a strategy to clear the current 302 back log within USEUCOM

## Plan of Action

The Logistics and Security Assistance Directorate should take the lead in identifying a USEUCOM POC to chair the working group. As we write the USEUCOM supplement to DOD 5030.49 on each country within the AOR, this POC will have to be assisted by at least one other person. Once DOD 5030.49 is written, one person could be the dedicated ECJ4 customs expert. This person will serve as the central point of contact for military customs within the USEUCOM AOR. He or she will be responsible for interfacing with the 3-person full time USTRANSCOM customs branch. This person will be responsible for providing European and African customs input to USEUCOM and DOD publications as well as coordinating the development of the country by country customs web pages. ECJ4 lead is necessary for the same reason that USTRANSCOM was designated as the DOD proponent for customs. As the stewards for the theater transportation system, ECJ4 provides visibility of the problems in the system and has the knowledge and the ability to make changes in the system in light of new or changing customs procedures and requirements. With the ECJ4 in the lead, we will maximize the efficiency of the distribution system rather than sub-optimize some other aspect of customs procedures.

The Customs Working Group should include representatives of all members of the theater distribution system (ECJ4, ECJ5, USTC LNO, DLA LNO, MTMC LNO, USAREUR, USAFE, NAVEUR, MARFOR, and SOCEUR) so that all "customs success stories" as well as all issues are highlighted and presented to the Group. Every service component must have their own customs branch or expert to be the resident expert within their service. When dealing with specific countries, even the USEUCOM LNOs may become involved with the process.

Because this group will negotiate specific agreements with individual governments, ECJ5 must play an important role. ECJ5 should be responsible for negotiating and developing agreements with individual nations. ECJ5 must provide the institutional knowledge regarding specific agreements with various countries in the AOR. As a starting point, ECJ5 could get individual non-NATO and/or non-PfP countries to agree to abide by NATO STANAGs. During the writing of the European portion of DOD 5030.49R (Customs Inspection), the ECJ5 should contribute the sections addressing each individual country's customs procedures, while ECJ4 should address general customs policy within USEUCOM.

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## Notes

- <sup>1</sup> North Atlantic Treaty Organization, *Agreement Between the Parties to the North Atlantic Treaty Regarding the Status of Their Forces*, London, UK, 19 June 1951, Article XI.
- <sup>2</sup> North Atlantic Treaty Organization, *STANAG 2176, SUBJECT: Procedures for Military Road Movement Across National Frontiers*, Brussels, BE, 27 April 1981, Page 4.
- <sup>3</sup> United States Army Europe, *Joint Transportation and Traffic Management Regulation--Central Europe*, USAREUR Reg. 55-355, 30 December 1986, Page 22-1.
- <sup>4</sup> North Atlantic Treaty Organization, *Agreement among the States parties to the North Atlantic Treaty and the other States participating in the Partnership for Peace regarding the status of their forces*, Brussels, BE, 19 June 1995, Article I.
- <sup>5</sup> Bondy, CPT Wayne J, *E-mail Subject: Romania and Macedonia*, Heidelberg, GE, 22 October, 1999, 09:59hrs.
- <sup>6</sup> Kruger, LTC Linda, *E-mail Subject: Help on a FYROM Question*, Stuttgart, GE, 23 September, 1999, 13:03hrs.
- <sup>7</sup> Mamer, Michael, *E-mail Subject: Customs White Paper*, Kaiserslautern, GE, 28 October, 1999. 15:43hrs.
- <sup>8</sup> DCG, 21st TSC, *E-mail: Subject: DMC Distribution Policy Guidance*, Kaiserslautern, GE, 12 October, 1999, Section 4, Paragraphs 2-3.
- <sup>9</sup> Mamer, Michael, *E-mail Subject: Customs White Paper*, Kaiserslautern, GE, 28 October, 1999. 15:43hrs.
- <sup>10</sup> North Atlantic Treaty Organization, *STANAG 2176, SUBJECT: Procedures for Military Road Movement Across National Frontiers*, Brussels, BE, 27 April 1981, Page 4-5.
- <sup>11</sup> Message from USCINCEUR/ECDC Personal for GEN Jumper from Admiral Abbot, *Subject: Worldwide Express (WWX) Contracts and Customs Hours of Operations during Weekends and Holidays*, DTG: 191444Z July 1999.
- <sup>12</sup> Mamer, Michael, *E-mail Subject: Customs White Paper*, Kaiserslautern, GE, 28 October, 1999. 15:43hrs.
- <sup>13</sup> Mamer, Michael, *E-mail Subject: RE: Distribution Policy Guidance*, Kaiserslautern, GE, 27 October, 1999, 16:36 hrs.
- <sup>14</sup> Message from USCINCTrans, *Subject: Worldwide Express (WWX) and Air Mobility Express (AMX)*, DTG: 041345Z November, 1998
- <sup>15</sup> Mamer, Mike, *E-mail: Subject: DHL/21st TSC DMC After Action Report*, Kaiserslautern, GE, 16 June 1999, 16:30hrs.
- <sup>16</sup> DCG, 21st TSC, *E-mail: Subject: DMC Distribution Policy Guidance*, Kaiserslautern, GE, 12 October, 1999, Section 4, Paragraphs 1.
- <sup>17</sup> Bane, Al, *Point Paper Subject: DOD Customs Program Transition*, Dated 18 August, 1999
- <sup>18</sup> USTRANSCOM-USEUCOM Customs Meeting held at Scott AFB, IL, 15 October, 1999.